

REMARKS

A. BACKGROUND

The present Amendment is in response to the Final Office Action mailed April 1, 2008. Claims 1-40 were pending, claims 25-29 were withdrawn from consideration, and claims 1-24 and 30-40 were rejected in view of cited art.¹ Claims 1, 23, 30, and 40 are amended with claims 22-23 canceled. Claims 1-21 and 24-40 are now pending in view of the above amendments.²

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

B. PRIOR ART REJECTIONS

I. REJECTION UNDER 35 U.S.C. §102(B)

The Office Action rejected claims 1, 4, 6, 7, 11, and 40 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,080,182 (*Shaw*). Because *Shaw* does not teach or suggest each and every element of the rejected claims, Applicant respectfully traverses this rejection in view of the following remarks.

The Office Action asserts that "Shaw et al discloses . . . a self-expanding frame that forms a plurality of petals" (Office Action, page 3 (citing *Shaw*'s Figures 8A-8F)). However, claims 1 and 40 recite, in part, "a joint connected to the first end and second end of the plurality

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

² Support for the claim amendments can be found throughout the specification and drawings as originally filed.

of petals." The Office Action has not cited, nor can Applicant find, any portion of *Shaw* that discloses, teaches, or suggests these limitations.

Shaw discloses various "configurations of star wire structures" (col. 8, ll. 25-26). However, Applicant respectfully submits that *Shaw*'s "star wire structures" do not disclose, teach, or suggest "a joint connected to the first end and second end of the plurality of petals," as recited, in part, by claims 1 and 40. Rather, as further shown in Figure 1, *Shaw* discloses "a star shaped wire frame 20 . . . ha[ving] four arms 24 . . . includ[ing] eight legs 26 which terminate into four curved arcuate ends 28" (col. 6, ll. 30-40). Thus, neither the four arms 24 of *Shaw*'s star shaped wire frame nor the various star patterns shown in Figures 8A-8F disclose, teach, or suggest a "first end [or] second end of the plurality of petals" that are connected to "a joint," as recited, in part, by claims 1 and 40. Therefore, *Shaw* does not anticipate claims 1 and 40 and dependent claims 4, 6, 7, and 11. Applicant respectfully requests that the rejection under 35 U.S.C. § 102(b) be withdrawn.

II. REJECTION UNDER 35 U.S.C. § 103

The Office Action rejected claims 2-3, 5, 8, 10, 13-16, 18-24, and 30-39 under 35 U.S.C. § 103(a) as being unpatentable over *Shaw* in view of U.S. Patent No. 5,797,960 (*Stevens*). Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shaw* in view of U.S. Patent No. 6,949,113 (*Van Tassel*). Claim 17 as rejected under 35 U.S.C. § 103(a) over *Shaw* in view of *Stevens*, and further in view of *Van Tassel*. Claims 22-23 have been canceled. With respect to the remaining claims, Applicant traverses the Examiner's rejection for obviousness on the grounds that the references – either individually or in combination – fail to teach or suggest each and every element of the rejected claims.

As shown above, *Shaw* does not disclose, teach, or suggest "a joint connected to the first end and second end of the plurality of petals," as recited in claim 1. Claims 14 and 30 have been similarly amended to recite, in part, "a joint connected to the first end and second end of the plurality of petals." Applicant respectfully submits that the Office Action has not cited, nor can Applicant find, any portion of *Stevens* or *Van Tassel* that disclose, teach, or suggest this limitation. In view of the proposed combination of *Shaw*, *Stevens*, and *Van Tassel*'s failure to teach this limitation, Applicant submits that the Office Action has failed to set forth a *prima facie*

case for obviousness against claim 1 and its dependent claims 2-3, 5, 8, 10, 12, and 13; claim 14 and its dependent claims 15-16, 18-21, and 24; and claim 30 and its dependent claims 31-39 and respectfully request that the rejection be withdrawn.

C. CONCLUSION

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as provide the required motivation or suggestion to combine references with the other art of record. For at least the foregoing reasons, Applicant respectfully submits that the pending claims are neither anticipated by nor made obvious by the art of record. In the event that the Examiner finds and remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 29th day of August, 2008.

Respectfully submitted,

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